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April 25, 2011

Via ECF and Federal Express

Honorable Faith S. Hochberg, U.S.D.J.
U.S.P.O. & Courthouse Building
50 Walnut Street
Newark, NJ 07102

**Re: *Waste Management of New Jersey, Inc. v. Teamsters-Employers Local 945 Pension Fund and Trustees of Teamsters-Employers Local 945 Pension Fund*
Case No. 10-3984(FSH-PS)**

Dear Judge Hochberg:

This firm, together with Schulte Roth & Zabel LLP, represents Defendants, Teamsters-Employers Local 945 Pension Fund (the "Fund") and its Trustees (the "Trustees") in the above referenced action (the "Action"). We write to respectfully withdraw Defendants' request that the Court reconsider the October 5, 2010 Order entered in this Action.

On October 5, 2010, this Court held a hearing on Plaintiff's, Waste Management of New Jersey, Inc.'s ("Waste Management"), motion for a preliminary injunction. On that same day, the Court entered an Order setting forth the rulings Your Honor issued from the bench at the hearing (the "Preliminary Injunction Order"). The Preliminary Injunction Order included the ruling "that as part of the equitable relief provided for by this Court, the parties are directed that any factual findings made in the delinquent contributions dispute will be considered de novo by the MPPAA arbitrator and will not have any collateral estoppel effect." (Docket No. 36.)

On December 20, 2010, the Court issued an Order incorporating the parties' agreement, *inter alia*, to Plaintiffs' request that the Court enter a final judgment after its ruling in connection with briefing on the issue of the collateral estoppel effect of the parties' delinquent contributions arbitration on their potential withdrawal liability arbitration. (*See* Docket Nos. 39-41.) As of March 8, 2011, the parties fully briefed the collateral estoppel issue.

On April 19, 2011, Arbitrator Wellington Davis issued an award in the parties' delinquent contributions arbitration in favor of Waste Management. Arbitrator Davis determined that Waste Management was not obligated to contribute to the Fund for the period January 1, 2009 through June 30, 2009. In light of Arbitrator Davis' decision, Defendants respectfully withdraw their request that Your Honor reconsider your October 5, 2010 Order. If the Court grants Defendants' request, the only remaining item in the case will be the entry of Final

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Judgment consistent with the Preliminary Injunction Order. Upon advice from Your Honor, Defendants will prepare a form of Final Judgment and provide it to Plaintiff for the purpose of obtaining consent as to form.

Thank you for your attention to and consideration of this matter.

Respectfully submitted,

CARELLA, BYRNE, CECCHI, OLSTEIN,
BRODY & AGNELLO



JOHN M. AGNELLO

JMA

Cc: All Counsel of Record (via ECF and Email)